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Attorneys for Complainant

**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ROBERT BAILES, P.T.A.

Respondent.

Case No. 1D 2006 64721

OAH No. 2008040487

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

The parties stipulate as follows:.

**PARTIES**

1. Steven K. Hartzell (Complainant) is the Executive Officer of the Physical Therapy Board of California. He brought this action solely in his official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Chris Leong, Deputy Attorney General.

2. Respondent Robert Bailes (Respondent) is represented in this proceeding by Robert D. Harding, Esq., whose address is 1430 Truxton Avenue, Suite 900, Bakersfield, California 93301-5230

3. On or about September 5, 1978, the Board issued physical therapy assistant license No. AT 262 to Respondent. The physical therapy assistant license was in full force and effect at all times relevant to the charges brought in Accusation No. 1D 2006 64721

1 and will expire on March 31, 2009, unless renewed.

2 **JURISDICTION**

3 4. Accusation No. 1D 2006 64721 was filed before the Board and is currently  
4 pending against Respondent. The Accusation and all other statutorily required documents were  
5 properly served on Respondent on August 29, 2007. Respondent timely filed his Notice of  
6 Defense contesting the Accusation. A copy of Accusation No. 1D 2006 64721 is attached as  
7 Exhibit A and is incorporated herein by reference.

8 **ADVISEMENT AND WAIVERS**

9 5. Respondent has carefully read, fully discussed with counsel, and  
10 understands the charges and allegations in Accusation No. 1D 2006 64721. Respondent has also  
11 carefully read, fully discussed with counsel, and understands the effects of this Stipulated  
12 Settlement and Disciplinary Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the  
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
15 counsel at his own expense; the right to confront and cross-examine the witnesses against him;  
16 the right to present evidence and to testify on his own behalf; the right to the issuance of  
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
18 reconsideration and court review of an adverse decision; and all other rights accorded by the  
19 California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up  
21 each and every right set forth above.

22 **CULPABILITY**

23 8. Respondent admits the truth of each and every charge and allegation in  
24 Accusation No. 1D 2006 64721.

25 9. Respondent agrees that his physical therapy assistant license is subject to  
26 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the  
27 Disciplinary Order below.

1 **CONTINGENCY**

2 10. This stipulation shall be subject to approval by the Physical Therapy Board  
3 of California. Respondent understands and agrees that counsel for Complainant and the staff of  
4 the Physical Therapy Board of California may communicate directly with the Board regarding  
5 this stipulation and settlement, without notice to or participation by Respondent or his counsel.  
6 By signing the stipulation, Respondent understands and agrees that he may not withdraw his  
7 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon  
8 it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement  
9 and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be  
10 inadmissible in any legal action between the parties, and the Board shall not be disqualified from  
11 further action by having considered this matter.

12 11. The parties understand and agree that facsimile copies of this Stipulated  
13 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
14 force and effect as the originals.

15 12. In consideration of the foregoing admissions and stipulations, the parties  
16 agree that the Board may, without further notice or formal proceeding, issue and enter the  
17 following Disciplinary Order:

18 **DISCIPLINARY ORDER**

19 **IT IS HEREBY ORDERED** that physical therapist assistant license No. AT 262  
20 issued to Respondent Robert Bailes is revoked. However, the revocation is stayed and  
21 Respondent is placed on probation for four (4) years on the following terms and conditions.

22 1. **RESTRICTION OF PRACTICE - SUPERVISION REQUIRED**  
23 Respondent shall only practice physical therapy under the supervision of a physical therapist who  
24 holds a valid unrestricted license, and who is responsible for the care rendered.

25 2. **RESTRICTION OF PRACTICE - HOME CARE** The respondent shall  
26 not provide physical therapy services in a patient's home.

27 3. **RESTRICTION OF PRACTICE - PRESENCE OF ANOTHER**  
28 **PHYSICAL THERAPIST REQUIRED** Respondent shall be prohibited from working any shift

in which there is no physical therapist physically present and on duty. However, this restriction does not apply when providing care to patients at West Point Physical Therapy in California City, California whose care shall be delegated and supervised by Ezequiel Marzocchetti, PT.

4. RESTRICTION OF PRACTICE - PROHIBITION OF SELF EMPLOYMENT OR OWNERSHIP Respondent shall not be the sole proprietor or partner in the ownership of any business that offers physical therapy services. Respondent shall not be a Board member or an officer or have a majority interest in any corporation that offers or provides physical therapy services.

5. COMMUNITY SERVICES The respondent shall be required to provide 80 hours of community service without compensation within the State of California as part of the probation. The respondent shall submit for prior approval a community service program to the Board or its designee.

6. EDUCATION COURSE Within 30 days of the effective date of this Decision, respondent shall submit to the Board, or its designee, for prior approval, a physical therapy remedial educational program in ethics which shall not be less than 20 hours. Respondent shall supply documentation verifying satisfactory completion of course work. This will be signed by the instructor(s) of the courses and evidence, if applicable, of passing grades on exams/tests given by the instructor.

Failure to comply with any component of this condition as specified above is a violation of probation. Following the completion of each course, the Board or its designee may administer an examination to test respondent's competency or otherwise demonstrate competency of the subject.

7. PROBATION MONITORING COSTS Respondent shall reimburse all costs incurred by the Board for probation monitoring during the entire period of probation. Respondent will be billed at least quarterly. Such costs shall be made payable to the Physical Therapy Board of California. Failure to make ordered reimbursement within 60 days of the billing shall constitute a violation of the probation order.

8. COST RECOVERY The respondent is ordered to reimburse the Board

1 the actual and reasonable investigative and prosecutorial costs incurred by the Board in the  
2 amount of \$9,617.37. Said costs shall be reduced, however, and the remainder forgiven, if  
3 Respondent pays \$2,400.00 within 60 days of the effective date of the Decision. In the event  
4 Respondent fails to pay within sixty (60) days of this Decision. In the event Respondent fails to  
5 pay within sixty (60) days of the Decision, the full amount of costs shall be immediately due and  
6 payable. Failure to pay the ordered reimbursement, or any agreed upon payment, may constitute  
7 a violation of the probation order. The filing of bankruptcy by Respondent shall not relieve  
8 Respondent of his responsibility to reimburse the Board. If Respondent is in default of his  
9 responsibility to reimburse the Board, the Board will collect cost recovery from the Franchise  
10 Tax Board, the Internal Revenue Service or by any other means of attachment of earned wages  
11 legally available to the Board. Failure to fulfill the obligation could also result in attachment to  
12 the Department of Motor Vehicle registrations and/or license renewals.

13           9.     OBEY ALL LAWS Respondent shall obey all federal, state and local  
14 laws, and statutes and regulations governing the practice, inspections and reporting, of physical  
15 therapy in California and remain in full compliance with any court ordered criminal probation.

16           10.    COMPLIANCE WITH ORDERS OF A COURT The respondent shall be  
17 in compliance with any valid order of a court. Being found in contempt of any court order is a  
18 violation of probation.

19           11.    COMPLIANCE WITH CRIMINAL PROBATION AND PAYMENT OF  
20 RESTITUTION Respondent shall not violate any terms and conditions of criminal probation  
21 and shall be in compliance with any restitution ordered, payments or other orders.

22           12.    QUARTERLY REPORTS Respondent shall submit quarterly  
23 declarations under penalty of perjury on forms provided by the Board, stating whether there has  
24 been compliance with all the conditions of probation.

25           13.    PROBATION MONITORING PROGRAM COMPLIANCE Respondent  
26 shall comply with the Board's probation monitoring program.

27           14.    INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent  
28 shall appear in person for interviews with the Board, or its designee, upon request at various

1 intervals.

2                   15.     NOTIFICATION OF PROBATIONER STATUS TO EMPLOYERS The  
3 respondent shall notify all present or future employers of the reason for and the terms and  
4 conditions of the probation by providing a copy of the Initial Probationary License, Statement of  
5 Issues, Accusation and the Decision and Order, or Stipulated Settlement to the employer, and  
6 submit written employer confirmation of receipt to the Board within 10 days. The notification(s)  
7 shall include the name, address and phone number of the employer, and, if different, the name,  
8 address and phone number of the work location.

9                   16.     NOTIFICATION OF CHANGE OF NAME OR ADDRESS The  
10 respondent shall notify the Board, in writing, of any and all name and/or address changes within  
11 ten (10) days.

12                   17.     RESTRICTION OF PRACTICE - TEMPORARY SERVICES  
13 AGENCIES The respondent shall not work for a temporary services agency or registry.

14                   18.     RESTRICTION OF PRACTICE - CLINICAL INSTRUCTOR OF  
15 PHYSICAL THERAPY STUDENT INTERNS OR FOREIGN EDUCATED PHYSICAL  
16 THERAPIST LICENSE APPLICANTS PROHIBITED Respondent shall not supervise any  
17 physical therapy student interns or foreign educated physical therapist license applicants during  
18 the entire period of probation. Respondent shall terminate any such supervisory relationship in  
19 existence on the effective date of this probation.

20                   19.     PROHIBITED USE OF ALIASES Respondent may not use aliases and  
21 shall be prohibited from using any name which is not him legally-recognized name or based upon  
22 a legal change of name.

23                   20.     INTERMITTENT WORK If the respondent works less than 192 hours as  
24 a physical therapist or a physical therapist assistant in the physical therapy profession in a period  
25 of three months, those months shall not be counted toward satisfaction of the probationary  
26 period. The respondent shall notify the Board if he works less than 192 hours in a three month  
27 period.

28                   21.     TOLLING OF PROBATION The period of probation shall run only

1 during the time respondent is practicing or performing physical therapy within California. If,  
2 during probation, respondent does not practice or perform within California, respondent is  
3 required to immediately notify the probation monitor in writing of the date that respondent is  
4 practicing or performing physical therapy out of state, and the date of return, if any. Practicing or  
5 performing physical therapy by the respondent in California prior to notification to the Board of  
6 the respondent's return will not be credited toward completion of probation. Any order for  
7 payment of cost recovery shall remain in effect whether or not probation is tolled.

8           22.     VIOLATION OF PROBATION If respondent violates probation in any  
9 respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke  
10 probation and carry out the disciplinary order that was stayed. If an accusation or petition to  
11 revoke probation is filed against respondent during probation, the Board shall have continuing  
12 jurisdiction until the matter is final, and the period of probation shall be extended until the matter  
13 is final.

14           23.     REQUEST TO SURRENDER LICENSE DUE TO RETIREMENT,  
15 HEALTH OR OTHER REASONS Following the effective date of this probation, if respondent  
16 ceases practicing or performing physical therapy due to retirement, health or other reasons or is  
17 otherwise unable to satisfy the terms and conditions of probation, respondent may request to  
18 surrender his license to the Board. The Board reserves the right to evaluate the respondent's  
19 request and to exercise its discretion whether to grant the request or to take any other action  
20 deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the  
21 tendered license, the terms and conditions of probation shall be tolled until such time as the  
22 license is no longer renewable, the respondent makes application for the renewal of the tendered  
23 license or makes application for a new license.

24           24.     COMPLETION OF PROBATION Upon successful completion of  
25 probation, respondent's license shall be fully restored.

26           25.     CALIFORNIA LAW EXAMINATION - WRITTEN EXAM ON THE  
27 LAWS AND REGULATIONS GOVERNING THE PRACTICE OR PERFORMANCE OF  
28 PHYSICAL THERAPY Within 90 days of the effective date of this decision, respondent shall

1 take and pass the Board's written examination on the laws and regulations governing the practice  
2 of physical therapy in California. If respondent fails to pass the examination, respondent shall be  
3 suspended from the practice of physical therapy until a repeat examination has been successfully  
4 passed.

5                   26.     PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY WHILE  
6 ON PROBATION It is not contrary to the public interest for the respondent to practice and/or  
7 perform physical therapy under the probationary conditions specified in the disciplinary order.  
8 Accordingly, it is not the intent of the Board that this order, the fact that the respondent has been  
9 disciplined, or that the respondent is on probation, shall be used as the sole basis for any third  
10 party payer to remove respondent from any list of approved providers.

11   ACCEPTANCE

12                   I have carefully read the above Stipulated Settlement and Disciplinary Order and  
13 have fully discussed it with my attorney, Robert D. Harding, Esq. I understand that the stipulation  
14 and the effect it will have on my physical therapist assistant license. I enter into this Stipulated  
15 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
16 bound by the Decision and Order of the Physical Therapy Board of California.

17                   DATED: July 8, 2008\_\_\_\_\_.

18  
19   Original Signed By: \_\_\_\_\_  
20   ROBERT BAILES  
  Respondent

21                   I have read and fully discussed with Respondent Robert Bailes the terms and  
22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
23 Order. I approve its form and content.

24                   DATED: July 2008\_\_\_\_\_.

25  
26   Original Signed By: \_\_\_\_\_  
27   ROBERT D. HARDING, ESQ.  
  Attorney for Respondent



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**ENDORSEMENT**

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: September 22, 2008

EDMUND G. BROWN JR., Attorney General  
of the State of California

Original Signed By: \_\_\_\_\_  
CHRIS LEONG  
Deputy Attorney General  
  
Attorneys for Complainant

DOJ Matter ID: LA2006503398  
Bailes Stipulated Settlement.wpd

**Exhibit A**

**Accusation No. 1D 2005 64721**

**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ROBERT BAILES, P.T.A.

Respondent.

Case No. 1D 2005 64721

OAH No. 2008040490

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 24, 2008.

**IT IS SO ORDERED** November 24, 2008.

Original Signed By:

FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
NANCY KRUEGER, PT, PRESIDENT